

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01464-TNM**

NATIONAL STUDENT LEGAL DEFENSE NETWORK v.
U.S. DEPARTMENT OF EDUCATION
Assigned to: Judge Trevor N. McFadden
Cause: 05:552 Freedom of Information Act

Date Filed: 06/21/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**NATIONAL STUDENT LEGAL
DEFENSE NETWORK**

represented by **Robyn K. Bitner**
NATIONAL STUDENT LEGAL
DEFENSE NETWORK
1015 15th Street NW
Suite 600
Washington, DC 20005
(202) 734-7495
Email: robyn@nsldn.org
PRO HAC VICE
ATTORNEY TO BE NOTICED

Daniel Alexander McGrath
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 897-4213
Email: daniel.mcgrath@americanoversight.org
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. DEPARTMENT OF
EDUCATION**

represented by **John Cuong Truong**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2524
Fax: (202) 252-2599
Email: john.truong@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Wyneva Johnson
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2518
Fax: (202) 252-2599
Email: wyneva.johnson@usdoj.gov
TERMINATED: 07/01/2019

Date Filed	#	Docket Text
06/21/2018	1	COMPLAINT against U.S. DEPARTMENT OF EDUCATION (Filing fee \$ 400 receipt number 0090-5546290) filed by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u>

		Summons)(McGrath, Daniel) (Entered: 06/21/2018)
06/21/2018		Case Assigned to Judge Trevor N. McFadden. (zmd) (Entered: 06/22/2018)
06/22/2018	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by AMERICAN OVERSIGHT (McGrath, Daniel) (Entered: 06/22/2018)
06/22/2018	<u>3</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Robyn K. Bitner, :Firm- National Student Legal Defense Network, :Address- 1015 15th Street NW, Suite 600, Washington, DC 20005. Phone No. - 202-734-7495. Filing fee \$ 100, receipt number 0090-5550620. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(McGrath, Daniel) (Entered: 06/22/2018)
06/25/2018	<u>4</u>	SUMMONS (3) Issued Electronically as to U.S. DEPARTMENT OF EDUCATION, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent) (zmd) (Entered: 06/25/2018)
06/25/2018		MINUTE ORDER granting the <u>3</u> Motion for Leave to Appear Pro Hac Vice of Attorney Robyn K. Bitner. Counsel shall promptly register for this Court's CM/ECF system. Signed by Judge Trevor N. McFadden on 6/25/2018. (lctnm2) (Entered: 06/25/2018)
06/25/2018	<u>5</u>	STANDING ORDER Establishing Procedures for Cases Before Judge Trevor N. McFadden. The parties are hereby ORDERED to read and comply with the directives in the attached standing order. Signed by Judge Trevor N. McFadden on 6/25/2018. (lctnm2) (Entered: 06/25/2018)
07/18/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/25/2018. Answer due for ALL FEDERAL DEFENDANTS by 7/25/2018. (Attachments: # <u>1</u> Exhibit)(McGrath, Daniel) (Entered: 07/18/2018)
07/18/2018	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 07/09/2018, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF EDUCATION served on 7/2/2018. (See Docket Entry <u>6</u> to view document) (jf) (Entered: 07/25/2018)
07/23/2018	<u>7</u>	NOTICE of Appearance by Wyneva Johnson on behalf of All Defendants (Johnson, Wyneva) (Entered: 07/23/2018)
07/24/2018	<u>8</u>	ANSWER to Complaint by U.S. DEPARTMENT OF EDUCATION.(Johnson, Wyneva) (Entered: 07/24/2018)
07/25/2018		MINUTE ORDER. Before the Court are a complaint and an answer in this FOIA case. It is hereby ORDERED that the parties shall meet and confer and file a Joint Status Report proposing a schedule for proceeding in this matter. The schedule should address, among other things, the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, and a briefing schedule for dispositive motions, if required. The parties shall file the schedule on or before August 16, 2018. Signed by Judge Trevor N. McFadden on 7/25/2018. (lctnm2) (Entered: 07/25/2018)
07/25/2018		Set/Reset Deadlines: Joint Status Report due by 8/16/2018. (hmc) (Entered: 07/25/2018)
08/16/2018	<u>10</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 08/16/2018)
08/16/2018		MINUTE ORDER. Upon consideration of the parties' <u>10</u> Joint Status Report, it is hereby ORDERED that the parties shall meet and confer and file a Joint Status Report proposing a schedule for proceeding in this matter, on or before September 18, 2018. The schedule should address, among other things, the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a

		motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, and a briefing schedule for dispositive motions, if required. Signed by Judge Trevor N. McFadden on 8/16/2018. (lctnm2) (Entered: 08/16/2018)
08/17/2018		Set/Reset Deadlines: Joint Status Report due by 9/18/2018. (hmc) (Entered: 08/17/2018)
09/18/2018	<u>11</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 09/18/2018)
09/19/2018		MINUTE ORDER. Upon consideration of the parties' <u>11</u> Joint Status Report, the parties are hereby ORDERED to file a further Joint Status Report on or before October 25, 2018. The report should propose a schedule for proceeding in this matter, and discuss the Joint Status Report topics mentioned in prior Minute Orders. SO ORDERED. Signed by Judge Trevor N. McFadden on 9/19/2018. (lctnm2) (Entered: 09/19/2018)
09/19/2018		Set/Reset Deadlines: Joint Status Report due by 10/25/2018. (hmc) (Entered: 09/19/2018)
10/25/2018	<u>12</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 10/25/2018)
10/29/2018		MINUTE ORDER. Upon consideration of the parties' <u>12</u> Joint Status Report, it is hereby ordered that the parties shall file another Joint Status Report on or before October 31, 2018, informing the Court of the status of Defendant's search results as well as the status of the parties' negotiations in light of those results. Signed by Judge Trevor N. McFadden on 10/29/2018. (lctnm2) (Entered: 10/29/2018)
10/29/2018		Set/Reset Deadlines: Joint Status Report due by 10/31/2018. (hmc) (Entered: 10/29/2018)
10/31/2018	<u>13</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 10/31/2018)
11/01/2018		MINUTE ORDER. Upon consideration of the parties' <u>13</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before November 30, 2018, informing the Court of the parties' agreed-upon production schedule. If by November 30, 2018, the parties have not reached an agreement regarding a production schedule, the report should inform the Court of each party's proposed schedule. Signed by Judge Trevor N. McFadden on 11/1/2018. (lctnm2,) (Entered: 11/01/2018)
11/02/2018		Set/Reset Deadlines: Joint Status Report due by 11/30/2018. (hmc) (Entered: 11/02/2018)
11/30/2018	<u>14</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF EDUCATION. (Attachments: # <u>1</u> Text of Proposed Order)(Johnson, Wyneva) (Entered: 11/30/2018)
11/30/2018	<u>15</u>	NOTICE of Proposed Order <i>Plaintiff's Proposed Order</i> by NATIONAL STUDENT LEGAL DEFENSE NETWORK re <u>14</u> Status Report (Attachments: # <u>1</u> Text of Proposed Order Plaintiff's Proposed Order)(McGrath, Daniel) (Entered: 11/30/2018)
12/04/2018		MINUTE ORDER. Upon consideration of the parties' <u>14</u> Joint Status Report, it is hereby ordered that they shall appear for a status hearing on December 19, 2018, at 10 am in Courtroom 2 before Judge Trevor McFadden. Signed by Judge Trevor N. McFadden on 12/4/2018. (lctnm2) (Entered: 12/04/2018)
12/04/2018		Set/Reset Hearings: Status Conference set for 12/19/2018 at 10:00 AM in Courtroom 2 before Judge Trevor N. McFadden. (hmc) (Entered: 12/04/2018)
12/14/2018	<u>16</u>	MOTION to Continue <i>December 19, 2018 Status Conference to a Later Date</i> , by U.S. DEPARTMENT OF EDUCATION (Attachments: # <u>1</u> Text of Proposed Order)(Johnson, Wyneva) Modified event title on 12/19/2018 (znmw). (Entered: 12/14/2018)
12/14/2018	<u>17</u>	RESPONSE re <u>16</u> MOTION for Extension of Time to <i>Continue December 19, 2018 Status Conference to a Later Date</i> , filed by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 12/14/2018)

12/17/2018	<u>18</u>	ORDER denying <u>16</u> Motion for Extension of Time. The parties are hereby ordered to comply with the production schedule detailed in the attached order. The status conference scheduled for December 19, 2018, is hereby vacated, and Defendant's <u>16</u> Motion for Extension of Time is denied as moot. Signed by Judge Trevor N. McFadden on 12/17/2018. (lctnm2) (Entered: 12/17/2018)
12/17/2018		Set/Reset Deadlines: Defendant's production of 500 pages of records is due by 1/4/2019. Defendant's production of 1,000 pages of records is due by 2/4/2019. Joint Status Report due by 1/7/2019. (hmc) (Entered: 12/17/2018)
01/02/2019	<u>19</u>	Unopposed MOTION to Stay , MOTION for Extension of Time to <i>in Light of Lapse of Appropriations</i> by U.S. DEPARTMENT OF EDUCATION (Attachments: # <u>1</u> Text of Proposed Order)(Hudak, Brian) (Entered: 01/02/2019)
01/04/2019		MINUTE ORDER granting <u>19</u> Motion to Stay. Upon considering the Defendant's <u>19</u> Motion to Stay, it is hereby ordered that litigation activities in this matter shall be stayed until Congress has restored appropriations to the Department of Justice. Because the Department of Education is unaffected by the ongoing lapse in appropriations, the Department shall continue to meet its production obligations set forth in the Court's December 17, 2018 Order. It is further ordered that the Defendant will notify the Court immediately upon resumption of appropriations to the Department of Justice. Signed by Judge Trevor N. McFadden on 1/4/2019. (lctnm2) (Entered: 01/04/2019)
01/29/2019	<u>20</u>	NOTICE of Restored Government Funding by U.S. DEPARTMENT OF EDUCATION (Johnson, Wyneva) (Entered: 01/29/2019)
01/30/2019		MINUTE ORDER. Upon considering the Defendant's <u>20</u> Notice of Restored Government Funding, it is hereby ordered that the stay in this case is lifted. The production schedule imposed in the Court's December 17, 2018, <u>18</u> Order remains in effect. It is further ordered that the parties shall meet and confer, and submit a Joint Status Report on or before March 7, 2019. Signed by Judge Trevor N. McFadden on 01/30/2019. (lctnm2) (Entered: 01/30/2019)
01/30/2019		Set/Reset Deadlines: Joint Status Report due by 3/7/2019. (hmc) (Entered: 01/30/2019)
03/07/2019	<u>21</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 03/07/2019)
03/11/2019		MINUTE ORDER. Upon considering the parties' <u>21</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before May 9, 2019. The Joint Status Report should update the Court on the status of the processing of the Plaintiff's request and propose how the parties wish to proceed in this matter. Signed by Judge Trevor N. McFadden on 03/11/2019. (lctnm2) (Entered: 03/11/2019)
03/11/2019		Set/Reset Deadlines: Joint Status Report due by 5/9/2019. (hmc) (Entered: 03/11/2019)
05/07/2019	<u>22</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 05/07/2019)
05/07/2019		MINUTE ORDER. Upon considering the parties' <u>22</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before June 7, 2019. The Joint Status Report should address the status of the parties' discussions about the Plaintiff's concerns regarding the Defendant's use of FOIA Exemption 5 and inform the Court how the parties would like to proceed. Signed by Judge Trevor N. McFadden on 05/07/2019. (lctnm2) (Entered: 05/07/2019)
05/08/2019		Set/Reset Deadlines: Joint Status Report due by 6/7/2019. (hmc) (Entered: 05/08/2019)
06/06/2019	<u>23</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 06/06/2019)
06/06/2019		MINUTE ORDER. Upon consideration of the parties' <u>23</u> Joint Status Report, it is hereby ORDERED that the parties file a further Joint Status Report on or before June 27, 2019. The Joint Status Report should inform the Court of the status of the parties' negotiations over the Plaintiff's concerns about the Defendants' withholdings and recommend how the parties wish to proceed in this matter. Signed by Judge Trevor N. McFadden on 06/06/2019. (lctnm2) (Entered: 06/06/2019)

06/07/2019		Set/Reset Deadlines: Joint Status Report due by 6/27/2019. (hmc) (Entered: 06/07/2019)
06/27/2019	<u>24</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 06/27/2019)
07/01/2019	<u>25</u>	NOTICE OF SUBSTITUTION OF COUNSEL by John Cuong Truong on behalf of U.S. DEPARTMENT OF EDUCATION Substituting for attorney Wyneva Johnson (Truong, John) (Entered: 07/01/2019)
07/01/2019		MINUTE ORDER. Upon consideration of the parties' <u>24</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before July 18, 2019. The Joint Status Report should advise the Court on the status of the parties' negotiations and make recommendations for further proceedings, including if necessary, a proposed schedule for summary judgment briefing. Signed by Judge Trevor N. McFadden on 07/01/2019. (lctnm2) (Entered: 07/01/2019)
07/02/2019		Set/Reset Deadlines: Joint Status Report due by 7/18/2019. (hmc) (Entered: 07/02/2019)
07/18/2019	<u>26</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF EDUCATION. (Truong, John) (Entered: 07/18/2019)
07/19/2019		MINUTE ORDER. Upon consideration of the parties' <u>26</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before August 20, 2019. The Joint Status Report should advise the Court whether any issues remain to be resolved in this matter and make recommendations for further proceedings, including if necessary, a proposed schedule for summary judgment briefing. Signed by Judge Trevor N. McFadden on 07/19/2019. (lctnm2) (Entered: 07/19/2019)
07/19/2019		Set/Reset Deadlines: Joint Status Report due by 8/20/2019. (hmc) (Entered: 07/19/2019)
08/20/2019	<u>27</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF EDUCATION. (Truong, John) (Entered: 08/20/2019)
08/20/2019		MINUTE ORDER. Upon consideration of the parties' <u>27</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before September 20, 2019. The Joint Status Report should advise the Court about the progress of the parties' settlement discussions make recommendations for further proceedings, including, if necessary, a proposed schedule for summary judgment briefing. Signed by Judge Trevor N. McFadden on 08/20/2019. (lctnm2) (Entered: 08/20/2019)
08/20/2019		Set/Reset Deadlines: Joint Status Report due by 9/20/2019. (hmc) (Entered: 08/20/2019)
09/20/2019	<u>28</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (McGrath, Daniel) (Entered: 09/20/2019)
09/23/2019		MINUTE ORDER. Upon consideration of the parties' <u>28</u> Joint Status Report, it is hereby ordered that the parties shall file a further Joint Status Report on or before October 4, 2019. The status report should advise the Court about the status of the parties' settlement negotiations and must propose a summary judgment briefing schedule. Signed by Judge Trevor N. McFadden on 09/23/2019. (lctnm2) (Entered: 09/23/2019)
09/23/2019		Set/Reset Deadlines: Joint Status Report due by 10/4/2019. (hmc) (Entered: 09/23/2019)